

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
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John HIND, et al.	:	Confirmation Number: 5066
	:	
Application No.: 10/643,601	:	Group Art Unit: 2454
	:	
Filed: August 18, 2003	:	Examiner: J. Joo
	:	
For: BYPASSING CONTENT BLOCKING	:	

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S ANSWER dated March 16, 2010.

The Examiner's response to Appellants' arguments submitted in the Appeal Brief of December 21, 2009, raises additional issues and underscores the factual and legal shortcomings in the Examiner's rejection. In response, Appellants rely upon the arguments presented in the Appeal Brief of December 21, 2009, and the arguments set forth below.

REMARKS

Appellants have compared the statement of the rejection found on pages 3-14 of the Examiner's Answer with the statement of the rejection found on pages 3-13 of the Fifth Office Action. Upon making this comparison, Appellants have been unable to discover any substantial differences between the respective statements of the rejection. As such, Appellants proceed on the basis that the Examiner's sole response to Appellants' Appeal Brief is found on pages 14-19 of the Examiner's Answer in the section entitled "Response to Argument."

In the paragraph spanning pages 14 and 15 and in the first full paragraph on page 15 of the Examiner's Answer, the Examiner presented the following analysis:

In response, Examiner respectfully disagrees with Appellants' interpretation of the claims. According to the claims' language, the content blocking logic is connected to the browser. By connection, the content blocking logic may be separate from the browser. Examiner points to Appellants' specification that also describes that the content blocking may reside external to the browser. Appellants' specification recites "As the content blocking logic 180, whether it resides in same computer as browser 130 or external 130" (Page 12, paragraph 0026), and figure 1 shows "Content Blocking Logic 180" external to browser 130. It is unclear as to how the content blocking logic or content blocking is "within" the browser as argued by the Appellants.

Furthermore, according to the claims' language, while the browser is within a client device, the claims' do not specify that the content blocking logic is also within the client device. The content blocking logic is just connected to the browser and the browser is within the client device.

Appellants respectfully disagree with the Examiner's analysis.

At the outset, Appellants note that the Examiner's analysis fails to recognize the differences between the teachings of the applied prior art and the claimed invention. The claimed invention (either as a method, a hardware system, or a machine readable storage) resides in a computer device (i.e., a computer hardware markup language document delivery system). This computer device serves markup to a requesting browser, which is within a client device.

1 Importantly, the location at which the determining (i.e., identifying or detecting) the operation of
2 content blocking logic takes place (i.e., the computer hardware markup language document
3 delivery system) is different from where content blocking logic resides.

4
5 As is well-known to those skilled in the art, a browser within a client device can interact
6 with logic (i.e., a computer program) within the client device. For example, "plug-ins" are a type
7 of commonly-used computer program and provides additional functionality for the browser.
8 These plug-ins could be considered internal to the browser. A firewall is an example of logic
9 that is within a client device and is external to the browser. Content blocking logic, as is known
10 to those skilled in the art, is logic that blocks content to a browser. Within the client device
11 (either internal or external to the browser), the content blocking logic is connected to the browser
12 (so as to prevent certain content from being processed by the browser. Therefore, the operation
13 of the content blocking logic occurs within the client device.

14
15
16 On pages 15 and 16 of the Examiner's Answer, the Examiner further discussed the
17 teachings of Serena. As noted above, the location at which the determining (i.e., identifying or
18 detecting) the operation of content blocking logic takes place (i.e., the computer hardware
19 markup language document delivery system) is different from where content blocking logic
20 resides. As argued in the Appeal Brief, Gnagy fails to teach the "determining the operation of
21 content blocking logic connected to a browser within a client device" and where this determining
22 is performed (i.e., within a markup language document delivery system).

1 As admitted by the Examiner (and already acknowledged by Appellants in the Appeal
2 Brief), the observation program 405 performs the operation of content blocking (see last full
3 paragraph on page 16 of the Examiner's Answer). The Examiner is also relying upon the
4 teachings of the observation program 405 (see citations in the fifth full paragraph on page 4 of
5 the Examiner's Answer) to teach the "determining the operation of content blocking logic ..."
6 However, as claimed, the operation of the content blocking logic is different from where the
7 determining the operation of content blocking logic is performed. Thus, the Examiner's citation
8 of the observation program 405 for both sets of limitations is inconsistent with the claimed
9 language.

11
12 Referring to the paragraph spanning pages 16 and 17 of the Examiner's Answer, the
13 Examiner asserted the following:

14 In response, Examiner will further clarify the rejection. The claims do not specify how
15 operation of the content blocking logic is determined and while the steps of the claims are in a
16 system, the claims do not specify who in the system is determining the operation. As explained
17 above, Serena teaches of a content blocking logic, i.e. the observation program, connected to a
18 browser within a client device. The observation program may reside on the client device or
19 external to the client device. The observation program does not have to reside in the server as
20 argued by Appellants. Serena teaches that the observation program executes content preferences
21 and that the content preferences may include content to be blocked. The observation program may
22 perform content blocking based on the content preferences. (emphasis added)
23

24 Referring to the underlined portion of the above-reproduced passage, Appellants respectfully
25 submit that the Examiner's analysis is misplaced.

26
27 The steps of method claim 1 are performed in a markup language document delivery
28 system – also referred to in the art as a "server." Device claim 9 recites that the detection logic is
29 also within a markup language document delivery system (i.e., a server). Therefore, the

1 functionality of determining of the operation of the content block logic is found within the
2 markup language document delivery system.

3
4 Although Serena does not teach that the observation program has to reside in a server, in
5 order for Serena to teach certain of the limitations for which the Examiner is relying upon Serena
6 to teach, the observation program has to reside within the server of Serena. Specifically, as
7 noted above, the Examiner is also relying upon the teachings of the observation program 405
8 (see citations in the fifth full paragraph on page 4 of the Examiner's Answer) to teaching the
9 "determining the operation of content blocking logic ..." If the Examiner is asserting that the
10 observation program 405 is within the client device or in an intermediary device, then the
11 observation program 405 cannot be relied upon to teach the claimed "determining the operation
12 of content block logic."

13
14 Put differently, the limitations that the Examiner is relying upon Serena to teach is (A +
15 B) wherein A = determining the operation of content blocking logic being performed within a
16 markup language document delivery system and B = content blocking logic connected to a
17 browser within a client device. Serena teaches two alternatives (A + not B) and (B + not A),
18 which although separately encompassing the claimed limitations, fails to render obvious the
19 claimed invention, as a whole, which includes (A + B).

20
21 The Examiner attempts to cure these deficiencies with the following analysis in the first
22 full paragraph on page 17 of the Examiner's Answer:

23 As cited in the Office action and acknowledged by the Appellants, the content
24 preferences may be provided by a source other than a user (col. 6, lines 2-5). Serena further
25 describes that the source can be a server and that the preferences of a user on the server is accessed

1 by the observation program (col. 6, lines 13-16). Thus, the server determines that an observation
2 program, i.e. content block logic, is operating by receiving access from the observation program
3 and by the server providing what content to block to the observation program. As previously
4 explained, the observation program can reside on the client device and is connected to a browser
5 within a client device. Therefore, Serena teaches "content blocking logic connected to a browser
6 within a client device".
7

8 The alleged fact that preferences by a user can be sent from a server to an observation program
9 does not establish that the server determines the operation of content blocking logic, as claimed.
10 The sending of preferences does not necessarily result in the operation of content blocking logic.
11 Once the preferences are sent to the observation program from the server, Serena fails to teach
12 that the server follows up and actually determines that the preferences are being implemented.
13 Thus, the Examiner's new analysis fails to cure the above-identified deficiencies in the
14 Examiner's reliance upon the observation program to teaching both determining the operation of
15 content blocking logic being performed within a markup language document delivery system and
16 content blocking logic connected to a browser within a client device
17

18
19 On page 17 of the Examiner's Answer, the Examiner asserted the following:

20 In response, it is noted that since the claims recite a "system", the steps of the claims do
21 not have be performed in a single device. Gnagy teaches of a markup language document delivery
22 system that is able to circumvent operation of content blocking logic (col. 7, lines 19-23, 42-48).
23 Thus, a markup language document delivery system is not novel, and it would have been obvious
24 to one of ordinary skill in the art to implement Serena's teachings into Gnagy's markup language
25 document delivery system.
26

27 The Examiner's analysis fails to make a cogent point.
28

29 First, every computer device is a collection of another devices. Thus, whether it is called
30 a computer device or a computer system is not relevant.
31

1 Second, the fact that Gnagy teaches that a markup language document delivery system is
2 able to circumvent the operation of content blocking logic fails to either explicitly or inherently
3 establish that Gnagy teaches a determination of the operation of content blocking logic was
4 performed or that this determination was performed in the markup language document delivery
5 system. By analogy, the fact that a lightning rod is positioned on a house does not mean that a
6 determination was performed, within the house, that lightning was in the area. A determination
7 could have been made entirely elsewhere that lightning may eventually be in the area, and as a
8 preventative measure, the light bolt was installed on the house. Similarly, Gnagy does not teach
9 making a determination of the operation of content blocking logic. Instead, Gnagy presumes that
10 content blocking logic (i.e., URL filters – see column 7, lines 59-64 of Gnagy) are being used
11 without actually determining that this content blocking logic is in operation.

12
13 Third, the fact that Gnagy teaches a markup language document delivery system (e.g., a
14 server) does not establish where the location of the alleged determination of the operation of
15 content blocking logic is performed.

For the reasons set forth in the Appeal Brief of December 21, 2009, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: May 17, 2010

Respectfully submitted,

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CUSTOMER NUMBER 46320